

HOUSE BILL 946
By DeBerry L

AN ACT to enact the "Sales Tax Relief on Food Act of 2005" and to amend Tennessee Code Annotated, Title 67. This act makes appropriations for the purpose of providing tax relief for an indefinite period of time.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Sales Tax Relief on Food Act of 2005".

SECTION 2. Tennessee Code Annotated, Title 67, Chapter 1, Part 1, is amended by adding the following language as a new section:

Section 67-1-114.

(a) At the close of each fiscal year, the commissioner of the department of finance and administration, in consultation with the commissioner of revenue, shall certify the amount of surplus state revenue collected during the preceding fiscal year and notify the governor, speaker of the senate, speaker of the house and state treasurer of such amount. No later than November 1 each year, such surplus state revenue shall be deposited into the "sales tax relief on food fund" created pursuant to subsection (b).

(b)

(1) There is created a special account in the state treasury to be known as the "sales tax relief on food fund," hereinafter referred to as the "food fund." All surplus state revenue shall be deposited into the food fund in accordance with subsection (a).

(2) Moneys in the food fund shall be used exclusively to provide a system of sales tax relief to citizens of Tennessee on the purchase and consumption of

food and food products and to fund any administrative expenses reasonably necessary to provide such tax relief.

(3)

(A) If on July 1 in any year the balance of the food fund is equal to or greater than an amount which substantially equals or exceeds the amount of revenue generated by one-quarter of one percent (.25%) of revenue generated by the sales tax levied on food and food ingredients pursuant to §67-6-228(a), then an amount equal to such amount of such revenue then available in the food fund shall be transferred from the food fund to the general fund and such rate of taxation on food and food ingredients shall be permanently reduced by the same percentage. If funds remain in the food fund for additional transfer and reduction of the sales tax rate, then such reductions shall be made in increments of one-quarter of one percent (.25%).

(B) Any amount transferred pursuant to the provisions of this section shall not be recurring and shall be considered a one-time transfer from the food fund for the fiscal year in which a corresponding reduction in the rate of taxation is made.

(C) Any amount transferred pursuant to the provisions of this section shall not be considered surplus revenue for the fiscal year in which the transfer was made.

(4)

(A) The estimated amount of one-quarter of one percent (.25%) of revenue that is generated by the sales tax levied on food and food

ingredients pursuant to §67-6-228(a) shall be determined by the state funding board prior to June 1 for the next fiscal year.

(B) Prior to June 1 in any year in which a transfer will be made in accordance with the provisions of subsection (b)(3), the commissioner of revenue shall publish the rate of taxation on food and food ingredients that will be effective July 1. Such rate of taxation shall remain effective until the next such reduction.

(5) Administrative expenses incurred in providing tax relief pursuant to the provisions of this section may be appropriated by the general assembly from the food fund by specific reference to it, or by reference to the "food fund". Such appropriations shall otherwise be made in the manner required by law for appropriations.

(6) Any balance remaining unexpended at the end of a fiscal year in the food fund shall not revert to the general fund but shall be carried forward into the subsequent fiscal year. Any such balance shall not be considered surplus revenue for the purpose of subsection (a).

(7) Notwithstanding any provision of law to the contrary, interest accruing on investments and deposits of the food fund shall be credited to such fund, shall not revert to the general fund, and shall be carried forward into the subsequent fiscal year.

(8) Moneys in the food fund shall be invested by the state treasurer in accordance with the provisions of § 9-4-603.

(9) Notwithstanding any provision of this section to the contrary, upon elimination of the state rate of taxation on food and food ingredients, any

remaining balance of the food fund shall be transferred to the general fund and this section shall be repealed.

SECTION 3. Tennessee Code Annotated, Section 67-6-228(a), is amended by deleting the language "six percent (6%) of the sales price." And by substituting instead the language "six percent (6%) of the sales price or such amount as provided pursuant to the provisions of subsection (e)."

SECTION 4. Tennessee Code Annotated, Section 67-6-228, is amended by adding the following language as a new subsection (e):

(e) In accordance with the provisions of §67-1-114, except as provided in subsection (c), prior to June 1 each year, the commissioner of revenue shall publish the rate of taxation at which the retail sale of food and food ingredients for human consumption shall be taxed beginning July 1 of such year. Such rate, if any, shall be a percentage of the sales price and shall remain effective until the commissioner's next published rate.

SECTION 5. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 6. This act shall take effect at 12:05 a.m. on July 1, 2005, the public welfare requiring it and shall apply to fiscal years ending on and after June 30, 2005.